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**June 2015**

## **New rules for coordination of examination of noise impact – a simplification, or?**

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Noise is considered a major health and social problem. Matters concerning noise arise both in the physical planning and with consideration of applications and regulatory supervision pursuant to the Swedish Environmental Code. In spring 2015, a new regulation and two new guidelines from the National Board of Housing, Building and Planning and the Environmental Protection Agency have been presented as part of the efforts to facilitate community planning, increase housing construction, and increase coordination between the Planning and Building Act and the Environmental Code's approach to noise. The work on the two guideline documents has taken place in parallel and aims to facilitate a uniform application of the Planning and Building Act and the Environmental Code complying with the principle of legal certainty.

This article intends to provide a general review of the new regulations.

### **Regulation (2015:216) on Traffic Noise in the Vicinity of Residential Buildings**

The new Regulation on Traffic Noise in the Vicinity of Residential Buildings took effect on 1 June 2015. A draft regulation was first put forward in 2014, but with the change in the Cabinet, the decision was put off to be dealt with in the future.

The Regulation contains provisions on guidance values for noise outdoors in regards to rail traffic, roads and airports in the vicinity of residential buildings. The regulation also lays down rules regarding the calculation of noise levels in the vicinity of residential buildings.

The provisions of the Regulation are to be applied in determining whether the requirement for the prevention of detriment to human health in Chapter 2, section 6a, of the Planning and Building Act are fulfilled with the planning, in matters concerning building permits and provisional planning permission. In the calculation of noise levels in the vicinity of a residential building, consideration must also be given to future traffic which is of significance for the exposure to noise.

The provisions concerning noise from airports are also to be applied in matters concerning the examination of authorisation for airports pursuant to the Environmental Code.

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**June 2015**  
**New rules for coordination of noise impact – a simplification, or?**

The sound levels specified in the Regulation are, however, not absolute levels. Instead, the specified values are expressed as levels that should not be exceeded, in other words, as guideline values.

As a general rule, according to the Regulation noise from rail traffic and roads should not exceed a 55 dBA equivalent sound level ("L<sub>eq</sub>") at a residential building's front and 50 dBA L<sub>eq</sub> and 70 dBA maximum sound level in the vicinity of any outdoor area, such as a patio or balcony. For residences not exceeding 35 square meters what applies instead, is that the noise should not exceed 60 dBA L<sub>eq</sub> in the vicinity of the residential building's front.

In cases where the above noise level in the vicinity of a residential building's front is exceeded, according to the Regulation, at least half of the residential rooms in a residence should be facing a side where a 55 dBA L<sub>eq</sub> is not exceeded in the vicinity of the front and at least half of the residential rooms face towards a side where a 70 dBA maximum noise level is not exceeded between the hours of 22:00 and 06:00 in the vicinity of the front of the building. If the maximum sound level is exceeded, the levels should not be exceeded by more than a 10 dBA maximum sound level five times per hour between the hours of 06:00 and 22:00.

Regarding noise from airports, it is specified that it should not exceed 55 dBA FBN and a 70 dBA maximum noise level from air traffic in the vicinity of a residential building's front. For noise from airports in the municipality of Stockholm however, the limitation stated above concerning the maximum noise level from air traffic does not apply between the hours of 06:00 and 22:00. If the sound level of a 70 dBA maximum sound level from air traffic is exceeded, the level should not be exceeded more than sixteen times between the hours of 06:00 and 22:00, and not more than three times between the hours of 22:00 and 06:00. For noise from airports in the municipality of Stockholm, the limitation stated above does not apply between the hours of 06:00 and 22:00.

**The National Board of Housing, Building and Planning's guidance *Noise from industrial and other activities with the consideration of planning and review of building permits for residential dwellings (Report 2015:21)***

A major part of the present planning is focused, according to the National Board of Housing, Building and Planning, on the densification of existing buildings and built-up areas, and the conversion of former areas with activities such as industries to residential areas. There are many advantages to this, but there are also disadvantages associated with this, such as increased exposure to noise.

The National Board of Housing, Building and Planning's guidance will assist in the planning and construction of housing in areas that are exposed to industrial noise and other similar activities. The best possible noise level should always be sought.

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**June 2015****New rules for coordination of examination of noise impact – a simplification, or?**

The National Board of Housing, Building and Planning considers that three different zones should be used in planning for residential construction in areas susceptible to noise from industrial or other activity.

In zone A, residential construction should be accepted in planning and building legislation without noise-adapted design of the buildings to be constructed. It is nevertheless appropriate to take into account how the new buildings should be designed in order to contribute to an as good as possible environment in terms of sound. The maximum noise level, as a guideline value, should not exceed 50 dBA  $L_{eq}$  in the vicinity of the residential housing's front during the daytime (06:00 to 18:00) and 45 dBA  $L_{eq}$  in the vicinity of the residential housing's front during the evenings and night-time (18:00 to 22:00 / 22:00 to 06:00) or Saturdays, Sundays and public holidays.

In Zone B, residential construction should be accepted provided that the additional residential construction receives access to a soundproof/sound-dampened side and that the buildings are adapted for noise. Here too, the best possible noise level should always be sought. The maximum sound level, as a guideline value, should not exceed a 60 dBA equivalent sound level at the residential housing's front during the daytime, 55 dBA  $L_{eq}$  in the vicinity of the residential housing's front during Saturdays, Sundays and public holidays, as well as 50 dBA  $L_{eq}$  in the vicinity of the residential housing's front during the night. For the sound-dampened side, the maximum noise level of 45 dBA  $L_{eq}$  is specified in the vicinity of the residential housing's front and outdoor areas (patio/balcony) during the day and evenings, and 40 dBA  $L_{eq}$  in the vicinity of the residential housing's front during the night.

In zone C, the National Board of Housing, Building and Planning estimates that the noise levels are too high for the area to be suitable for residential construction and therefore housing should not be accepted. It specifies here, as a guideline value, noise levels exceeding 60 dBA  $L_{eq}$  in the vicinity of the residential housing's front during the daytime, 55 dBA  $L_{eq}$  in the vicinity of the residential housing's front during the evening as well as Saturdays, Sundays and public holidays, and 50 dBA  $L_{eq}$  in the vicinity of the residential housing's front at night.

**The Swedish Environmental Protection Agency's Guidance on noise from industrial and other activities (Report 6538)**

The Environmental Protection Agency had previously issued general guidelines with guidance values for external industrial noise, RR 78:5, which was based on authority from the Environmental Protection Act. The general advice was withdrawn in 2013 and replaced with a transitional Guidance in anticipation of the guidance which the Environmental Protection Agency now has prepared. The Guidance is intended as a support with supervision and monitoring, as well as assessment of activities.

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**June 2015**  
**New rules for coordination of examination of noise impact – a simplification, or?**

The main changes compared to the previous Guidance are:

- An expanded range of applications where other types of activities are included, other than industrial facilities.
- The same noise levels are specified as a starting point, irrespective of whether the activities are new or existing.
- The time period for what is considered to be “night” has been changed from 22.00-06.00, compared to 22.00-07.00.
- Provisions concerning outdoor levels in the vicinity of work premises have been deleted.
- As the values for environmental noise are specified in the plan description in the zoning or building permits for new residential housing, they become governing also in matters relating to inspection and supervision.
- Expanded descriptions of the key concepts in the Environmental Code.

The Swedish Environmental Protection Agency states in the Guidance that the noise levels outdoors at residential housing, preschools primary and secondary schools and healthcare facilities that normally should be used as guideline values with the assessment of whether the noise constitutes a nuisance. It indicates, however, that there may be grounds to apply other levels, either higher or lower, as well as other times of the day.

As a guideline value, it states 50 dBA  $L_{eq}$  during the daytime, 45 dBA  $L_{eq}$  evenings, as well as Saturdays, Sundays and public holidays, and 40 dBA  $L_{eq}$  during the night. For residential housing where a case/application involving zoning or building permits commencing after 2 January 2015, a nuisance assessment is made in the planning or building permit stage, in accordance with the new provisions in the Planning and Building Act. The levels therefore relate primarily to residential buildings where a case/application involving zoning or building permits has been commenced prior to 2 January 2015.

#### **Conclusion**

Binding and uniform rules for the construction of housing in noisy environments has been lacking until now. The lack of regulation has been criticised because it has hampered the densification of cities and urban areas and it has also resulted in that differing requirements have been adopted in different parts of the country. A regulation in this area now provides greater predictability, and therefore, we see this as a positive step.

However the new regulation contains values that are recommended values in combination with a statutory text where the term “should” is used. This results in a situation where after all the noise values which are specified are not binding as legislation and regulations usually are. The values provided for in this Regulation may therefore be departed from, which in and of itself may lead to a situation where in the end the uniform regulation that has been desired will not be so unified after all.

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**June 2015**  
**New rules for  
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With regards to the two guidance documents from the National Board of Housing, Building and Planning and the Environmental Protection Agency respectively, they precisely have the stated purpose to coordinate the views concerning noise in the permitting phase and construction phase with the inspection and supervision. As the lack of consensus has been a problem for a long time, including the situation with double investigations and various non-uniform assessment criteria, this is a positive sign and will hopefully lead to less uncertainty for both residents and developers/operators of enterprises. It is not entirely clear however how this co-assessment will be applied in practice. From the National Board of Housing, Building and Planning's Guidance it is clear that it intends to supplement this with general guidelines in the future.

With regard to the above comments therefore, we certainly will have reason to return to these issues in the future.



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